

### **REMARKS**

This Amendment is being filed in response to the Office Action dated August 16, 2007. Claims 7-14 are currently pending in the application, all of which stand rejected. Of these, claims 7, 9, 11 and 13-14 are independent. By this Amendment, independent claims 7, 9, 11 and 13-14 have been amended. No new matter has been added. Applicants respectfully submit that the amendments have been made to better clarify the invention as claimed and Applicants respectfully request reconsideration in light of the amendments and remarks herein.

### **Telephonic Interview**

Applicants thank with appreciation the courtesies extended during the telephonic interview on October 30, 2007. During the telephonic interview, U.S. Patent No. 4,584,046 to Geyssel ("Geyssel") was discussed. The Examiner requested that Applicants amend the claims to overcome the teachings of Geyssel. While Applicants respectfully disagree with the Examiner's assertions that Geyssel anticipates or renders obvious the claims, in the interest of expediting prosecution, Applicants submit this amendment in response thereto.

### **Claim Objections and Rejection under 35 U.S.C. §112**

Claims 8 and 10 are objected to and rejected under 35 U.S.C. §112 as being indefinite because, according to the Examiner, claims 8 and 10 are directed to the method of making a bag. Applicants respectfully submit that claims 8 and 10 are directed to providing bags having foil side walls, and not to the method of producing such bags. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the objection and rejection of claims 8 and 10.

**Rejection under 35 U.S.C. §102**

Independent claims 7, 9, 11, 13 and 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,584,046 to Geyssel (“Geyssel”). Applicants respectfully submit that Geyssel fails to teach or disclose “providing a lever having a depressing arm and a pivoting arm” and “rotating the pivoting arm of the lever to displace the depressing arm downward toward the conveyor belt” as recited in claims 7, 9, 11, 13 and 14. Rather, Geyssel is directed to a two-arm tilt lever that pivots about the joining portion of the two arms as a result of a spring urging the two-arm tilt lever to pivot. Neither arm of Geyssel is rotated in order to displace the depressing arm downward toward the conveyor belt. Another embodiment disclosed by Geyssel is directed to a lever that is moved toward and away from the containers in a lateral movement. Accordingly, the levers of Geyssel fail to teach or disclose the invention as claimed in claims 7, 9, 11, 13 and 14, but rather, teaches away from the invention.

**Rejection under 35 U.S.C. §103(a)**

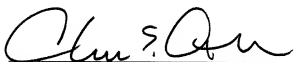
Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Geyssel in view of U.S. Patent No. 4,572,758 to Wild (Wild). Applicants respectfully submit that Wild fails to remedy the shortcomings of Geyssel, and also fails to teach or suggest “providing a lever having a depressing arm and a pivoting arm” and “rotating the pivoting arm of the lever to displace the depressing arm downward toward the conveyor belt” as claimed. Accordingly, Applicants respectfully submit that Geyssel and Wild, whether taken alone or in combination, fail to render claim 12 unpatentable.

### CONCLUSION

Applicants respectfully submit that all outstanding rejections have been addressed and are now either overcome or moot. Favorable consideration and prompt allowance of this application is respectfully requested. In the event that there are any questions, or should additional information be required, please do not hesitate to contact Applicants' attorney at the number listed below.

No fee, other than the two-month extension of time submitted herewith, is deemed necessary in connection with the filing of this Amendment. However, if any fee is due the amount of such fee may be charged to Deposit Account No. 19-4709.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles E. Cantine", is written over a horizontal line.

Charles E. Cantine, Reg. No. 43,531 for:  
Steven B. Pokotilow  
Reg. No. 26,405  
Attorney for Applicants  
Stroock & Stroock & Lavan LLP  
180 Maiden Lane  
New York, New York 10038  
(212) 806-5400